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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,350	01/30/2002	Jean-Marie Badoz	MICROM6	1148
7590 08/17/2004			EXAMINER	
Gary M Cohen Strafford Building Number Three Suite 300 125 Strafford Avenue Wayne, PA 19102			BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	
DATE MAILED: 08/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,350

Applicant(s)

BADOZ, JEAN-MARIE

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 14, 15 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 14, 15 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the applicant's communication of July 14, 2004 and upon further consideration, the final rejection of the last Office Action of January 14, 2004 is withdrawn. The amendment filed July 14, 2004 has been entered. The indicated allowability of claim 10 (previous claim 13) is withdrawn in view of the newly discovered reference to Friedman (6,236,020). Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the "root-canal instrument" is intended to be positively claimed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 10, 14, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Friedman (6,236,020). Friedman discloses an apparatus 10 comprising a plurality of recesses 22 and a cartridge 25 containing filling material (column 3 line 54) received in at least one of the

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recesses, the cartridge contains a dose of the filling material (column 1 line 24), a heater coupled with the recesses, the heater operates to bring the dose up to a desired temperature (column 2 line 27), and a heat-conducting element operatively associated with the heater, the heat-conducting element is a heat-conducting body 14, the plurality of recesses are formed in the heat-conducting heating body, the heater is a resistive electric element 20 (column 3 line 24) coupled with the heat-conducting heating body. As to claim 14, the recesses are coupled with a single heater (column 3 line 37). As to claims 28 and 29, Friedman shows the cartridge is a hollow vessel being a cylinder having an integral bottom and a sealed closure.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman. Friedman discloses an apparatus that shows the limitations as described above and the cartridge is an elongate vessel having a longitudinal axis, the recesses are shaped to receive the elongate vessel; however, Friedman does not show the longitudinal axis is substantially vertical orientation is use. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made as to the orientation of the longitudinal axis of the vessel in use as the applicant also show the use of a sealed vessel in the recesses. It would have been an obvious matter of choice as to the intended use of the vessel with inferentially claimed instrument.

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8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman in view of Brockway. Friedman discloses an apparatus that shows the limitations as described above; however, Friedman does not show the filling material of gutta percha. Brockway teaches a heated cartridge containing filling of gutta percha (column 1 line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made use the filling material of Brockway in order to use a material that has historically been suited for use to fill root canal in view of Brockway.

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman in view of Bender. Friedman discloses an apparatus that shows the limitations as described above; however, Friedman does not show the vessel formed of plastic material. Bender teaches a cartridge for filling material having the vessel formed of plastic material (column 4 line 52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the vessel of plastic material in order to easily manufacture the vessel by means of a mold in view of Bender.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 703-305-0740. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Melba Bumgarner".

Melba Bumgarner
Patent Examiner